

AMENDED IN SENATE MAY 26, 2006

Senate Joint Resolution

No. 31

Introduced by Senator Lowenthal

April 18, 2006

Senate Joint Resolution No. 31—Relative to clean ports.

LEGISLATIVE COUNSEL'S DIGEST

SJR 31, as amended, Lowenthal. Clean ports.

This measure would memorialize the ~~Secretary~~ *Administrator* of the United States Environmental Protection Agency, urging the ~~secretary administrator~~ to adopt federal regulations limiting emissions from marine vessels ~~and~~, locomotives, *and aircraft* in order to achieve healthful air quality in California and other areas with air quality problems and to encourage the United States Environmental Protection Agency to pursue more protective regulations and incentive programs to reduce substantially the emissions from ~~marine vessels these sources~~, as provided.

Fiscal committee: no.

1 WHEREAS, California is a global gateway for trade, with
2 more than 40 percent of all of the goods imported to the United
3 States entering through California's ports; and
4 WHEREAS, Growth in the movement of goods through
5 California's ports is projected to double or triple over the next 25
6 years; and
7 WHEREAS, Toxic diesel air pollution from goods movement
8 sources, such as marine vessels and locomotives, will increase in
9 the face of this growth unless more protective ~~international and~~
10 ~~federal control~~ actions are undertaken; and

1 WHEREAS, The International Maritime Organization (IMO),
2 an agency of the United Nations, has established initial
3 smog-forming NO_x emissions limitations and fuel sulfur
4 specifications for oceangoing vessels, and the United States
5 Environmental Protection Agency (EPA) has adopted emission
6 standards for new locomotives, new trucks, and some vessels;
7 and

8 WHEREAS, Current international and federal standards
9 governing air pollution from port-related sources are not
10 sufficient to support attainment of federal health-based air quality
11 standards in—states *areas* with growing emissions from
12 port-related sources; and

13 WHEREAS, Rules adopted by the EPA and the IMO have not
14 adequately reduced emissions from sources associated with the
15 ports, ~~including emissions from marine vessels, harbor craft,~~
16 ~~cargo handling equipment, locomotives, and trucks;~~ and

17 WHEREAS, The EPA has not regulated emissions from
18 foreign flag vessels. The vast majority of oceangoing vessels
19 calling on local ports, over 90 percent, are foreign flagged. ~~Those~~
20 ~~emissions have not been regulated by EPA;~~ and

21 WHEREAS, The EPA stated that it will consider adopting
22 emission standards for foreign flag vessels in 2007; and

23 WHEREAS, The IMO emissions and fuel standards for
24 foreign flag vessels are particularly weak. IMO smog-forming
25 NO_x standards for new “Category 3” vessels will achieve only a
26 6-percent reduction in emissions. IMO fuel rules allow
27 extraordinarily high levels of sulfur content; and

28 WHEREAS, Federal emission standards for locomotives are
29 relatively lenient. Even the newest locomotives must only
30 achieve a 57-percent reduction in NO_x emissions. In contrast,
31 most onroad and stationary sources are controlled to over 90
32 percent. EPA has stated it intends to adopt more stringent
33 locomotive emission standards in 2006; and

34 WHEREAS, ~~Marine vessels, locomotives, and other~~
35 ~~port-related~~ *Port-related* sources emit substantial and growing
36 quantities of smog-forming nitrogen oxides and other air
37 contaminants; and

38 WHEREAS, Locomotives and marine vessels emit diesel
39 exhaust, a toxic air contaminant; and

1 WHEREAS, Diesel emissions are responsible for 70 percent of
2 the cancer risk from air toxics emissions in California; and

3 WHEREAS, The EPA has ~~listed diesel exhaust as a mobile~~
4 ~~source air toxic~~ *stated that diesel exhaust is likely to be*
5 *carcinogenic for humans*; and

6 WHEREAS, Part or all of 474 counties in 32 states are
7 classified nonattainment for either failing to meet the new
8 eight-hour federal ozone standard or for causing a downwind
9 county to fail to meet that standard; and

10 WHEREAS, One hundred fifty-nine million people nationwide
11 live in areas that do not meet the new eight-hour federal ozone
12 standard; and

13 WHEREAS, All areas of the country could benefit from the
14 reduction in emissions of toxic air contaminants from
15 locomotives, and many areas would benefit from reduction in
16 those emissions from marine vessels; and

17 WHEREAS, Emissions from mobile sources, including
18 locomotives, marine vessels, and ~~aircrafts~~ *aircraft*, are preventing
19 California from achieving state and federal clean air standards;
20 and

21 WHEREAS, The ~~primary responsibility for controlling~~
22 ~~emissions from locomotives and aircrafts rests with the federal~~
23 ~~government; and EPA has authority to adopt regulations~~
24 *establishing emissions standards for marine vessels, locomotives,*
25 *and aircraft; and*

26 WHEREAS, Federal law mandates that the state adopt rules to
27 attain national ambient air quality standards ~~but preempts state~~
28 ~~and local ability to regulate some of the most significant~~
29 ~~pollution sources, including aircraft and new locomotive~~
30 ~~engines; but limits state and local authority to adopt certain~~
31 *regulations establishing emissions standards for aircraft, new*
32 *locomotives, and new locomotive engines; and*

33 WHEREAS, Federal regulations define new ~~locomotive~~
34 ~~engines to include rebuilt engines so as to prevent state~~
35 ~~authorities from requiring the use of best available control~~
36 ~~technologies in the rebuilding of older locomotives; and~~
37 *locomotives and new locomotive engines to include*
38 *remanufactured locomotives and engines so as to restrict state*
39 *authority to adopt some regulations establishing emissions*
40 *standards for these older locomotives; and*

1 WHEREAS, Locomotives have extremely long useful lives
2 and older locomotives emit air contaminants at relatively high
3 rates; and

4 ~~WHEREAS, The ability of state and local governments to~~
5 ~~control emissions from marine vessels is constrained by legal and~~
6 ~~practical hurdles to regulating sources in international commerce;~~
7 ~~and State and local governments seeking to control emissions~~
8 ~~from marine vessels have faced arguments by vessel operators~~
9 ~~that state and local governments lack authority to adopt laws~~
10 ~~establishing emission limits for foreign flag vessels; and~~

11 WHEREAS, Stringent regulations in California have reduced
12 emissions by over 90 percent from most significant stationary
13 sources and from motor vehicles and other mobile sources under
14 the jurisdiction of state and local authorities in California, but
15 locomotives, marine vessels, and ~~aircrafts~~ *aircraft* have been
16 controlled far less stringently by the federal government ~~and~~
17 ~~therefore, and~~ have not achieved their fair share of emission
18 reductions needed to meet state and federal clean air standards;
19 and

20 WHEREAS, Until locomotives, marine vessels, and ~~aircrafts~~
21 *aircraft* are required to achieve their fair share of emission
22 reductions, other mobile sources such as passenger cars, buses,
23 and commercial trucks, as well as stationary sources, including
24 large and small businesses in California will have to make up the
25 difference; and

26 WHEREAS, The ports have developed ambitious programs
27 and plans but, to date, they have not rolled back emissions or
28 even arrested emissions growth. Both the Port of Los Angeles
29 and the Port of Long Beach have developed emission control
30 programs and plans that will help mitigate air quality impacts,
31 but the fact remains that the ports continue to be sources of
32 singularly large and growing quantities of diesel emissions; now,
33 therefore, be it

34 *Resolved by the Senate and the Assembly of the State of*
35 *California, jointly, That the Legislature respectfully*
36 ~~memorializes the Secretary of the EPA urging the secretary~~
37 ~~Administrator of the EPA urging the administrator to adopt~~
38 ~~federal regulations limiting emissions from marine vessels and~~
39 ~~locomotives, locomotives, and aircraft~~ in order to achieve

1 healthful air quality in California and other areas with air quality
2 problems; and be it further

3 *Resolved*, That those federal regulations mandate use and
4 improvement of state-of-the-art emission control and prevention
5 technologies at the earliest feasible date, be comparably stringent
6 to state and local air pollution control requirements so that
7 operators of locomotives, marine vessels, and ~~aircrafts~~ *aircraft*
8 contribute their fair share to support air quality attainment plans,
9 and ~~that~~ implement Congress' intent that state and local air
10 quality authorities be allowed to ~~regulate emissions from~~
11 ~~locomotives after they are placed in use, including rebuilt or~~
12 ~~remanufactured locomotives; and be it further adopt rules~~
13 *establishing emissions standards for remanufactured*
14 *locomotives; and be it further*

15 *Resolved*, That the Legislature respectfully encourages the
16 EPA to pursue more protective regulations and incentive
17 programs to reduce substantially the emissions from marine
18 vessels, including domestic and foreign flagged ~~vessel main and~~
19 ~~auxiliary engines of all sizes, locomotives, and cargo handling~~
20 ~~equipment, with the level of emission reductions from~~
21 ~~port-related sources~~ *vessels, locomotives, and aircraft, with the*
22 *level of emissions* sufficiently reduced to help regions polluted by
23 trade-related diesel emissions attain federal health-based
24 standards by the dates required by the Clean Air Act, federal
25 regulations, and corresponding state implementation plans; and
26 be it further

27 *Resolved*, That the Secretary of the Senate transmit copies of
28 this resolution to the President and Vice President of the United
29 States, to the Speaker of the House of Representatives, to each
30 Senator and Representative from California in the Congress of
31 the United States, to the United States Environmental Protection
32 Agency, to the United States Coast Guard, and to the author for
33 appropriate distribution.